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Tuesday, December 07, 2010

Via Fax and ECF

Magistrate Judge Elizabeth T. Hey
Fax: 267-299-5061

RE: Jerry Davis v. Lowes Companies, Inc.
No.: 09-5367

Your Honor:

Prior to the filing of the Second Amended Complaint, this Honorable Court had issued a scheduling order setting the discovery deadline for December 21, 2010. Plaintiff requests a sixty (60) day adjournment of all deadlines so to complete discovery during that extended time period. All Defendants concur.

Notwithstanding the Second Amended Complaint (directly joining third-party defendant) was filed after this Honorable Court's scheduling order setting the above discovery deadline, this is a complex, multi-party product liability matter wherein the subject product has only been able to be retrieved from out-of-state by co-defendant available for inspection and expert analysis between December 6-December 17, 2010. Plaintiff's expert, if not all experts, will require time most certainly past the discovery deadline within which to generate an expert report (let alone rebuttal reports and expert discovery). In light of the joinder of third-party defendant and the Second Amended Complaint, plaintiff's deposition is scheduled for one (1) week prior to the expiration of the discovery deadline. Defendants' depositions (3) are being coordinated but likewise are anticipated past the current discovery deadline. As is often in these complex personal injury matters, plaintiff, if not all parties anticipate, post-deposition additional fact discovery also necessarily occurring after the discovery deadline.

In short, plaintiff respectfully requests a sixty (60) day enlargement of this Honorable Court's scheduling order so to accommodate the developments which have occurred and will

occur since the inception of this matter. If this Honorable Court requires a more formal motion, plaintiff will, of course, accommodate.

Thank you for Your Honor's consideration of plaintiff's request for a scheduling order adjournment of sixty (60) days.

Sincerely,

/s/ Matthew B. Weisberg
MATTHEW B. WEISBERG

MBW/hcm

Cc: Daniel D. Krebs, Esq.
Kevin Canavan, Esq.
Donald M. Davis, Esq.
(Via ECF Only)